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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,718	02/13/2001	Steven P. Hamilton	15879-13	1023

7590 11/04/2004

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EXAMINER
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LOWE, MICHAEL S

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/782,718

Applicant(s)

HAMILTON, STEVEN P.

Examiner

M. Scott Lowe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/16/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-45 and 48-57 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,5-17 and 19-21 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-45, 53, 55 and 57 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 18, 48-52 and 54 is/are rejected.
- 7) ☒ Claim(s) 46, 47 and 54 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the toe truck bed must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 46 & 47 are objected to because of the following informalities: they are labeled as withdrawn but were cancelled in the amendment filed 7/9/02. Appropriate correction is required.

Claim 54 is objected to because of the following informalities: lines 6 and 7 repeat the limitation "the first and second wheels are positioned between the pair of cradle bars". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 states "off the pair of side bars" which is unclear. For sake of examination it is assumed that the applicant meant "of" rather than "off".

Claim 4 recites the limitation "off the pair of side bars" in line 2. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed that the applicant meant "cradle bars" rather than "side bars".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4, 48-51,54,56, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman (US 3,912,139) in view of Hymer (US 5,462,398), Casey (US 4,696,484) and Neff (US 3,822,798).

Re claims 1,4,48,49,54,56, Bowman teaches an apparatus 10 for transporting a cycle 130 comprising a first front chock 16,18 adapted to associate with the front side of a first wheel 132 of a cycle.

Bowman teach the rear sidewalls acting as rear chocks (column 4, lines 36-37) but does not teach a first rear chock adapted to associate with the back side of a second wheel of the cycle. Hymer teaches using rear-hinged ramp 150 as a rear chock adapted to associate with the backside of a second wheel of a cycle in order to keep the cycle from moving.

Bowman does not teach a dolly adapted to couple to a first end of each of the cradle bars extending from the first front chock, said dolly having an actuator and a pair of arms, each of said arms having a pivotal end and a free end, said pivotal end of each of said arms pivotally coupled to the actuator. Casey teaches a dolly adapted to couple to a first end of each of cradle bars 24,26 extending from the first front chock, said dolly having an actuator 82 and a pair of arms, each of said arms having a pivotal end and a free end, said pivotal end of each of said arms pivotally coupled to the actuator.

Neff teaches the desirability of having a cycle transport with dollies in order to move the transport in dependent of the tow vehicle to a storage place (column 3, lines 50-52).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bowman by collective general teachings of Hymer and Casey to use rear-hinged ramp 20 as a rear chock adapted to associate with the backside of a second wheel of a cycle in order to keep the cycle from moving and a dolly adapted to couple to a first end of each of cradle bars extending from the first front chock, said dolly having an actuator and a pair of arms, each of said arms having a pivotal end and a free end, said pivotal end of each of said arms pivotally coupled to the actuator in order to be able roll a cycle on or off of a towing vehicle to a storage place.

As just modified Bowman teaches a pair of cradle bars 12a,12b,14a,14b releasably coupled to the first front 16, 18 and rear chocks 20 wherein the first and second wheels are positioned between the pair a cradle bars.

Re claim 50, Bowman teaches a second front chock 16 adapted to associate with a backside of the first wheel.

Re claim 51, Bowman does not teach a second rear chock adapted to associate with a front side of the second wheel. Casey teaches (figures, column 2, lines 36-62) providing chocks to both the front and rear sides of wheels in order to cradle the wheels and limit wheel movement. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bowman by the general teaching

of Casey to have chocks to both the front and rear sides of wheels in order to cradle the wheels and limit wheel movement.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman (US 3,912,139) in view of Hymer (US 5,462,398), Casey (US 4,696,484) and Neff (US 3,822,798) as modified in claim 1 and further modified in view of Scott (US 5,234,307).

Re claim 18, Bowman as already modified by Casey teaches the dolly used to raise the first wheel or the second wheel of the motorcycle to roll the motorcycle. There is no mention of whether it is rolled onto to a bed of a tow truck. Scott provides a teaching of a cycle transport rolled onto the bed of a tow truck in order to transport the cycle and its transport. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bowman by the general teaching of Scott to have the cycle transport rolled onto the bed of a tow truck in order to transport the cycle and its transport.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bowman (US 3,912,139) in view of Hymer (US 5,462,398), Casey (US 4,696,484), Neff (US 3,822,798) and Scott (US 5,234,307).

Re claim 52, Bowman teaches an apparatus 10 for transporting a cycle 130 comprising a first front chock 16,18 adapted to associate with the front side of a first wheel 132 of a cycle.

Bowman teach the rear sidewalls acting as rear chocks (column 4, lines 36-37) but does not teach a first rear chock adapted to associate with the back side of a second wheel of the cycle. Hymer teaches using rear-hinged ramp 150 as a rear chock adapted to associate with the backside of a second wheel of a cycle in order to keep the cycle from moving.

Bowman does not teach a dolly adapted to couple to a first end of each of the cradle bars extending from the first front chock, said dolly having an actuator and a pair of arms, each of said arms having a pivotal end and a free end, said pivotal end of each of said arms pivotally coupled to the actuator. Casey teaches a dolly adapted to couple to a first end of each of cradle bars 24,26 extending from the first front chock, said dolly having an actuator 82 and a pair of arms, each of said arms having a pivotal end and a free end, said pivotal end of each of said arms pivotally coupled to the actuator.

Neff teaches the desirability of having a cycle transport with dollies in order to move the transport in dependent of the tow vehicle to a storage place (column 3, lines 50-52).

Scott provides a teaching of a cycle transport rolled onto the bed of a tow truck in order to transport the cycle and its transport.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bowman by collective general teachings of Hymer, Casey and Scott to use rear-hinged ramp 20 as a rear chock adapted to associate with the backside of a second wheel of a cycle in order to keep the cycle from moving and a dolly adapted to couple to a first end of each of cradle bars extending



from the first front chock, said dolly having an actuator and a pair of arms, each of said arms having a pivotal end and a free end, said pivotal end of each of said arms pivotally coupled to the actuator in order to be able roll a cycle on or off of a towing vehicle to a storage place and to have the cycle transport rolled onto the bed of a tow truck in order to transport the cycle and its transport.

As just modified Bowman teaches a pair of cradle bars 12a,12b,14a,14b releasably coupled to the first front 16, 18 and rear chocks 20 wherein the first and second wheels are positioned between the pair a cradle bars.

***Allowable Subject Matter***

Claims 22-45,53,55,57 are allowed. Claim 22 is generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 23-44,53 are no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim. In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Re claims 22,55, the prior art taken as a whole does not show nor suggest the first front chock and the first rear chock releasably coupled to both the first and second cradle bars with accompanying stated structure. The closest prior art, Bowman, does not include the first front chock and the first rear chock releasably coupled to both the first and second cradle bars with accompanying stated structure as required by the claim and there is no motivation absent the applicant's own disclosure, to modify the Bowman reference in the manner required by the claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Clayton (US 3,963,129) teaches a motorcycle carrier.

Speier (US 5,228,712) teaches a motorcycle carrier.

Riecki (US 6,354,777) teaches a motorcycle carrier with straps loaded on a truck.

Bergin (US 6,095,746) a motorcycle carrier.

Lichtenberg (US 5,609,461) a motorcycle carrier.

Applicant's arguments with respect to the claims as previously rejected have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 8/16/04 have been fully considered but they are not persuasive.

Regarding claim 52, while the rejection has changed, since applicant argued that under the sixth paragraph of 35 U.S.C. 112 the claim is allowable it is pointed out that

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means-plus function language does not mean a claim is allowable if the prior art has means that one of ordinary skill in the art would realize is equivalent to and not clearly precluded by that which is provided by the applicant in the specification. Thus the claim remains rejected.

Applicant's arguments regarding Scott do not seem to apply to this rejection as it is clearly pointed out that Scott is not used as the teaching for raising the wheel of the cycle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is 703-305-1940. The examiner can normally be reached on 6:30am-4:30pm M,Tu,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl

  
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